

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3193 of 2004

Between:

Hereditary Honarary President and Correspondent of Sri Mandati Reddy Dora
Educational Society(Sree Veera Hanman, Teacher Education Training Institute)
(A.P.S.No.1140 and APS 00830) Chintagunta Rural, Markapur Mandal,
Prakasham District, rep.by M.Tirupathi Reddy, R/o.Chintagunta Prakasam District.

..... PETITIONER

AND

- 1 The Regional Director, Southern Regional Committee National Council for
Teacher Education-CSD Buildings, HMT Post, Bangalore 5600031.
- 2 The Secretary, Secretary to Government Education (Trainings) Department,
Secretariat, A.P., Hyderabad-04.
- 3 The Commissioner & Director School, Education, A.P. Hyderabad.
- 4 The Registrar, Nagarjuna University, Nagarjuna Nagar, Guntur District, A.P.
- 5 The Director Incharge of Exams (School Education)Hyderabad. A.P.
- 6 The Director SCERT, Govt.of A.P., Aliya Compound, Opp. L.B.Stadium,
Hyderabad-500013, A.P.
- 7 Allotment Convenor (TPT), Govt, College of Physical Education, Domalguda,
Hyderabad, AP.
- 8 The State Convenor LPCET-2003 and Regional Joint Director of School
Education, Kakinada, AP.

RR 7 & 8 are impleaded as per Court Order dated 18-3-2004 in WPMP 6394 of
2004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the
circumstances stated in the Affidavit filed herein the High Court may be pleased to
issue a writ, order or direction in directing the 1st respondent herein to grant ;the
recognition and permission to the courses i.e. T.P.T. Teacher Education Training
(DIET)/Nursery Teacher Education) and to B.Ed courses to the petitioner institution
as per the application dt.21-01-2004 and other application was sent on or before
31.12.2003 and the same was received on 27.12.03. As per the notification

dt.01.01.2004 published in the Gazettee of India (Extraordinary) Part III, Secstion-4, Sub-Clause XI.

Counsel for the Petitioner: MR. SADURAJESWARA REDDY

Counsel for the Respondents 2,3,5,6,7 & 8: GP FOR EDUCATION

Counsel for the Respondent No.1: Mr. B. Adinaryana Rao

The Court made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.3193 OF 2004

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ORDER :

The petitioner claims to be the Honorary and Hereditary President and Correspondent of Sri Mandati Reddy Dora Educational Society (Sri Veera Hanuman Teacher Education Training Institute) at Chinthangunta Rural of Markapur Mandal, Prakasam District.

This writ petition is filed aggrieved by the alleged inaction on the part of the first respondent – Regional Director of Southern Regional Committee, National Council for Teacher Education (for short, 'N.C.T.E.') in granting recognition and permission to the petitioner institution for courses namely Teacher Education Training (DIET) / Nursery Teacher Education and B.Ed. course. It is stated that the petitioner submitted an application to N.C.T.E. seeking grant of recognition for establishing the abovesaid course for the academic year 2003-04. In pursuance thereof, the first respondent – N.C.T.E. by letter dated 20-01-2003 / 04-02-2003 informed the petitioner that since the application has not been submitted along with No Objection Certificate (N.O.C.) of the State Government, the same cannot be processed for the academic session 2003-04 and that the application will be carried forward for consideration for the subsequent academic year provided that supporting

documents as per Appendix 1-B of the N.C.T.E. (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programme and permission to start a new course or training) Regulations, 2002, dated 13-11-2002 (for short, 'N.C.T.E. Regulations) are made good on or before 31-12-2003. The petitioner states that in pursuance thereof the application in triplicate was again submitted and the same was received by the first respondent on 27-12-2003.

While so, N.C.T.E. made an amendment to the N.C.T.E. Regulations under Notification dated 01-01-2004 in the Gazette of India (Extraordinary) Part-III, Section-4. By virtue of the said amendment after sub-clause (ix) of Para 6 of the Regulations, the following sub-clauses are added:

(x) The requirement of NOC shall not apply to institutions already recognized by NCTE for running a B.Ed. course and seeking recognition to start a new course or training in Elementary Teacher Education or from an existing elementary teacher education institution seeking permission to increase in intake in such a course for a period of three years from the date of notification of these regulations in the Official Gazette.

(xi) The requirement of NOC shall not apply to institutions seeking recognition to start a course or training in Pre-School Teacher Education / Nursery Teacher Education or from an existing institution seeking permission to increase in intake in such a course, for a period of three years from the date of notification of these regulations in the Official Gazette.

In the said notification, it was also made clear that in accordance with the abovesaid revised provisions, the last date for submission of application shall be 31-01-2004 for the academic year 2004-05. The petitioner claims that as per the new clause added to the para 6 of the N.C.T.E. Regulations, there is no need to obtain N.O.C. from the State Government for starting courses or training in Pre-School Teacher Education / Nursery Teacher Education for a period of three years from the date of the said notification and therefore a fresh application dated 21-01-2004 in triplicate was submitted to the respondents by registered post with acknowledgement due, seeking to grant recognition and permission for the petitioner institution for T.P.T., Teacher Education Training (DIET) and B.Ed. course for the academic year 2004-

05. The grievance of the petitioner is that the respondents failed to consider the said request of the petitioner and no orders have been passed so far. Hence, this writ petition seeking a direction to the first respondent to grant recognition and permission to the courses i.e., T.P.T., Teacher Education Training (DIET), Nursery Teacher Education and B.Ed. course to the petitioner institution as per application dated 21-01-2004 and also the application sent earlier in pursuance of the communication of N.C.T.E. dated 04-02-2003 in terms of clause (xi) of para 6 of the amended Regulations as published in the Gazette, dated 01-01-2004.

No counter-affidavit has been by the first respondent – N.C.T.E. However, on behalf of the respondents 2, 3, 5 and 6, the Commissioner and Director of School Education filed a counter- affidavit contesting the writ petition. In the counter-affidavit, it is stated that the application of the petitioner dated 21-01-2004 claiming the benefit of clause (xi) of Para 6 of the N.C.T.E. Regulations as amended under the Notification dated 01-01-2004 needs no consideration since the said amendment does not apply to the petitioner which is a new institution to offer Elementary Teacher Education. It is also stated that as per the orders issued in G.O.Ms.No.398, Education, dated 04-12-1997, a notification will have to be issued by the Director of School Education inviting applications from the registered societies for establishment of B.Ed. colleges / Pandit Training Colleges indicating number of colleges likely to be permitted in the locality – District / Revenue Division-wise. No such notification has been issued at present calling for applications for enrollment of B.Ed. colleges or Pandit Training Colleges. As such, the representation of the petitioner dated 21-01-2004 cannot be considered for issue of N.O.C. to B.Ed. and T.P.T. Courses. Thus, it is prayed that the writ petition is without any merit and liable to be dismissed.

On behalf of the first respondent – N.C.T.E., though no counter-affidavit is filed, the learned Counsel appearing for N.C.T.E. submitted that the amendment brought out to N.C.T.E. Regulations under the Notification dated 01-01-2004 has no application at all to the petitioner institution which is admittedly a new institution. He also submits that the courses proposed to be commenced by the petitioner are not covered by para 6(xi) of the Amended Regulations and therefore in the absence of N.O.C. by the State Government, the petitioner cannot be granted permission.

The learned Counsel for the petitioner submits that in view of the fact that there is a requirement of huge number of additional teachers at Elementary level, the N.C.T.E. has brought out the amendment to the Regulations so as to overcome the shortage of trained teachers and thereby liberalising the policy relating to set up of institutions for Elementary Teacher Education Programme. The learned Counsel also submits that the petitioner institution has already invested huge amounts for construction of buildings and for providing infrastructural facilities. He vehemently contends that clause (xi) of para-6 of the Regulations which was inserted by way of amendment squarely applies to the petitioner's case and therefore the respondents are not justified in not considering the request of the petitioner for grant of permission to the courses proposed to be commenced.

It is relevant to note that the petitioner earlier filed W.P.No.9371 of 2003 challenging the action of the State Government in not granting N.O.C. to the petitioner's institution as per its representation dated 20-12-2002 for commencing the courses Telugu Pandit Teacher Training Course and B.Ed. The said writ petition was dismissed by this Court holding that in the absence of a notification issued in terms of G.O.Ms.No.398, dated 04-12-1997 on the basis of the assessment of the educational needs of the locality, the petitioner is not entitled to No Objection Certificate. While following the decision of the Division Bench in GOVERNMENT OF A.P. vs. ST.MARY'S EDUCATIONAL SOCIETY, GIDDALURU, PRAKASAM DIST. AND ANOTHER it was also held that the directions sought for by the petitioner to grant N.O.C. cannot be issued unless the educational needs of the locality are assessed and notification is issued inviting applications for setting up the institutions. The said order was upheld by the Division Bench of this Court in W.A.No.2051 of 2003 and even the Special Leave Petition filed by the petitioner was dismissed by the Supreme Court. Now, this writ petition is filed seeking directions to the respondents herein on the basis of the amended N.C.T.E. Regulations contending that by virtue of the said amendment, N.O.C. from the State Government is not necessary.

At the outset, it is to be noted that nothing has been placed before this Court

to show that any notification in terms of G.O.Ms.No.398, dated 04-12-1997 has been issued inviting the applications from the registered societies in the locality where the petitioner proposes to set up the institutions. Moreover, admittedly, even as on today N.O.C. has not been granted in favour of the petitioner so far by the State Government for the proposed courses. Hence, it cannot be said that there is any change in the circumstances after the order that was passed in W.P.No.9371 of 2003 and therefore the directions as prayed for by the petitioner cannot be granted for recognition and permission to the petitioner institution for commencing T.P.T. and B.Ed. courses which admittedly require N.O.C. from the State Government.

Then, the only question that requires to be considered is whether the petitioner is entitled to the benefit of the amendment brought out to N.C.T.E. Regulations under the Notification dated 01-01-2004 and whether the petitioner is entitled for grant of recognition for the proposed courses even in the absence of N.O.C. from the State Government.

It is not for this Court to decide whether the courses proposed to be commenced by the petitioner fall within the category of the courses specified in clause (xi) of para-6 of the Regulations. As can be seen from the newly inserted clause (xi) to para-6 of the Regulations, such benefit has been extended even in favour of the new institutions to start the course or training in Pre-School Teacher Education / Nursery Teacher Education. The petitioner claims that he has made an application on 21-01-2004, well within the time prescribed under the notification of the N.C.T.E. dated 01-01-2004 seeking recognition for certain courses which include Nursery Teacher Education and since the same is covered by para-6 (xi) of the amended N.C.T.E. Regulations, the first respondent ought to have considered the same and granted recognition as sought by him.

In the absence of any counter-affidavit by the first respondent – N.C.T.E. disputing the fact that the application of the petitioner does not include the courses specified in para-6(xi) of the amended N.C.T.E. Regulations and particularly since the application of the petitioner dated 21-01-2004 is still pending before the first respondent, I am of the view that it would be appropriate to direct the first respondent

to consider the said application of the petitioner dated 21-01-2004 and to pass appropriate orders in accordance with law.

Accordingly, without expressing any opinion with regard to the entitlement of the petitioner for recognition as sought by him, the Writ Petition is disposed of with a direction to the first respondent to consider the application of the petitioner dated 21-01-2004 and to pass appropriate orders in accordance with law particularly in the light of para-6(xi) of the N.C.T.E. Regulations as amended under the Notification dated 01-01-2004, as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order and to communicate such order to the petitioner.

The Writ Petition is disposed of accordingly. No costs.

January, 2005.

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To

1. The Regional Director, Southern Regional Committee National Council for Teacher Education-CSD Buildings, HMT Post, Bangalore 5600031.
- 2 The Secretary, Secretary to Government Education (Trainings) Department, Secretariat, A.P., Hyderabad-04.
- 3 The Commissioner & Director School Education, A.P., Hyderabad.
- 4 The Registrar, Nagarjuna University, Nagarjuna Nagar, Guntur District, A.P.
- 5 The Director Incharge of Exams (School Education), Hyderabad. A.P.
- 6 The Director, SCERT, Govt.of A.P., Aliya Compound, Opp. L.B.Stadium, Hyderabad-500013, A.P.
- 7 The Allotment Convenor (TPT), Govt, College of Physical Education, Domalguda, Hyderabad, AP.
- 8 The State Convenor LPCET-2003 and Regional Joint Director of School Education, Kakinada, AP.
9. Two CCs to G.P. for Education, High Court of AP Bldgs, Hyderabad (OUT).
- 10) **2 CD copies**